

**REMARKS**

This preliminary amendment is filed in order to facilitate processing of the above-identified application and responds to the Office Action dated July 31, 2007 in which the Examiner rejected claims 20-37 under 35 U.S.C. § 103.

As indicated above, claims 20 and 29 have been amended for stylistic reasons and to make explicit what is implicit in the claims. The amendment is unrelated to a statutory requirement for patentability.

Claims 20 and 32 claim a data transmission controlling method for controlling transmission of data from data transmitting means to data receiving means over communication channels and for causing the data transmission means to encrypt data and transmit the encrypted data to the data receiving means over the communication channels. The data transmission controlling method comprises the steps of; first, encapsulating the data to be transmitted in accordance with a first protocol. The encapsulated data is then encrypted. The encrypted data is (further) encapsulated in accordance with a second protocol. Claim 32 recites additional features as well.

Through the method of the claimed invention encapsulating data in accordance with a first protocol using padding, encrypting the encapsulated data and (further) encapsulating the encrypted data in accordance with a second protocol, as claimed in claims 1 and 32, the claimed invention provides a data transmission controlling method which allows data to be transmitted with related protocol requirements kept intact and thus ensures security. The prior art does not show, teach or suggest the invention as claimed in claims 20 and 32.

Claims 20-26, 28-37 were rejected under 35 U.S.C. § 103 as being unpatentable over *Seth-Smith et al.* (U.S. Patent No. 4,829,569) in view of *Gotwald* (U.S. Patent No. 5,987,518) and further in view of *Kalmanek, Jr., et al.* (U.S. Patent No. 5,524,116).

Applicant respectfully traverses the Examiner's rejection of the claims under 35 U.S.C. § 103. The claims have been reviewed in light of the Office Action, and for reasons which will be set forth below, Applicant respectfully requests the Examiner withdraws the rejection to the claims and allows the claims to issue.

*Seth-Smith et al.* merely discloses that once teletext information is assembled at 14, the assembled teletext, video and audio signal is encrypted and/or scrambled at 16. (Col. 6, lines 30-31). The encrypted signal is then transmitted at 18 (Col. 6, lines 49-51).

Thus, nothing in *Seth-Smith et al.* shows, teaches or suggests (a) encapsulating data in accordance with a first protocol, (b) encrypting the encapsulated data, (c) (further) encapsulating the encrypted data with a second protocol and (d) padding (only) for the first protocol as claimed in claims 20 and 32. Rather, *Seth-Smith et al.* only discloses that once information is assembled, it is encrypted and/or scrambled before being transmitted by transmitter 18.

*Gotwald* appears to disclose communicating IP data via line 38 to an IP routing path 42. The IP data is routed to a transport encapsulation module 44 which encapsulates the IP data into MPEG-2 transport packets. Headers are added at module 46 and then passed to priority module 48. Additional processing occurs on the data at modules 56, 58, 60 and 62 in order to transmit over broadband channel 16. (Col. 4 lines 28-54).

*Gotwald* only discloses routing IP data to an encapsulation module 44 and passing the encapsulated packets to a plurality of modules for priority, multiplexing, security and error correction prior to transmitting over a broadband channel. Thus nothing in *Gotwald* shows,

teaches or suggests (a) encrypting encapsulated data which is encapsulated with a first protocol, (b) encapsulating the encrypted data in accordance with a second protocol and (c) padding data (only) for the first protocol as claimed in claims 20 and 32. In other words, nothing in *Gotwald* shows, teaches or suggests encrypting first encapsulated data prior to (further) encapsulating the encrypted data as claimed in claims 20 and 32.

The combination of *Seth-Smith et al.* and *Gotwald* would merely suggest that prior to transmitting *Gotwald's* encapsulated data that the data would be encrypted as taught by *Seth-Smith et al.* (i.e. as taught by *Seth-Smith et al.*, the assembled data is encrypted prior to transmission by transmitter 18). Nothing in the combination of the references shows, teaches or suggests encrypting the first encapsulated data prior to the (further) encapsulation of the data with a second protocol as claimed in claims 20 and 32.

*Kalmanek, Jr., et al.* merely discloses a module for encapsulating a packet includes stuffing a padding field (Col. 4 lines 21-23, 43-45). Nothing in *Kalmanek, Jr., et al.* shows, teaches or suggests padding data (only) for a first protocol as claimed in claims 20 and 32. Rather, *Kalmanek, Jr., et al.* merely suggests that for an encapsulation, padding is provided.

Furthermore, nothing in *Kalmanek, Jr., et al.* shows, teaches or suggests encrypting data encapsulated with a first protocol and (further) encapsulating the encrypted data as claimed in claims 20 and 32.

A combination of *Seth-Smith et al.*, *Gotwald*, and *Kalmanek, Jr., et al.* would merely suggest to encapsulate the IP data by transport encapsulation 44 as taught by *Gotwald*, to pad the encapsulated data as taught by *Kalmanek, Jr., et al.* and to encrypt or scramble the assembled data prior to transmission as taught by *Seth-Smith et al.* Thus nothing in the combination of the references shows, teaches or suggests encrypting first encapsulated data prior to (further)

encapsulating the encrypted data as claimed in claims 20 and 32. Furthermore, nothing in the combination of the references shows, teaches or suggests that (only) the first protocol pads a portion of the data as claimed in claims 20 and 32. Therefore, Applicant respectfully requests the Examiner withdraws the rejection to claims 20 and 32 under 35 U.S.C. § 103.

Claims 21-26, 28-31 and 33-37 recite additional features. Applicant respectfully submits that claims 21-26, 28-31 and 33-37 would not have been obvious within the meaning of 35 U.S.C. § 103 over *Seth-Smith et al.*, *Gotwald* and *Kalmanek, Jr., et al.* at least for the reasons as set forth above. Therefore, Applicant respectfully requests the Examiner withdraws the rejection to claims 21-26, 28-31 and 33-37 under 35 U.S.C. § 103.

Claim 27 was rejected under 35 U.S.C. § 103 as being unpatentable over *Seth-Smith et al.*, *Gotwald* and *Kalmanek, Jr., et al.* and further in view of *Mueller* (U.S. Patent No. 5,602,917).

Applicant respectfully traverses the Examiner's rejection of the claim under 35 U.S.C. § 103. The claim has been reviewed in light of the Office Action, and for reasons which will be set forth below, Applicant respectfully requests the Examiner withdraws the rejection to the claims and allows the claim to issue.

As discussed above, since nothing in the combination of the primary references shows, teaches, or suggests the invention as claimed in claim 20, Applicant respectfully submits that the combination of the primary references with the secondary reference to *Mueller* will not overcome the deficiencies of the primary references. Therefore, Applicant respectfully requests the Examiner withdraws the rejection to claim 27 under 35 U.S.C. § 103.

The prior art of record, which is not relied upon, is acknowledged. The references taken singularly or in combination do not anticipate or make obvious the claimed invention.

**CONCLUSION**

Thus it now appears that the application is in condition for reconsideration and allowance. Reconsideration and allowance at an early date are respectfully requested.

If for any reason the Examiner feels that the application is not now in condition for allowance, the Examiner is requested to contact, by telephone, the Applicant's undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this case.


In the event that this paper is not timely filed within the currently set shortened statutory period, Applicant respectfully petitions for an appropriate extension of time. The fees for such extension of time may be charged to Deposit Account No. 50-0320.

In the event that any additional fees are due with this paper, please charge our Deposit Account No. 50-0320.

Respectfully submitted,

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